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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/764,638	01/26/2004	Russell A. Budd	YOR920000326US2	9109

7590 02/02/2007  
Ryan, Mason & Lewis, LLP  
90 Forest Avenue  
Locust Valley, NY 11560

EXAMINER
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BECK, ALEXANDER S

ART UNIT	PAPER NUMBER
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2629

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/02/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/764,638	BUDD ET AL.	
	Examiner	Art Unit	
	Alexander S. Beck	2629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

1. Acknowledgment is made of the amendment filed by the Applicant on December 29, 2006, in which: independent Claim 1 is amended; Claim 2 is cancelled; and the rejections of the claims are traversed. Claims 1 and 3 are currently pending in U.S. Application Serial No. 10/764,638, and an Office Action on the merits follows.

### ***Response to Arguments***

2. Applicant's arguments filed December 29, 2006 have been fully considered but they are not persuasive.

Applicant argues Tosaki fails to disclose a compact head mounted virtual display unit with an optical system in the field of view of one eye of the user and a slidable light shield integrated within the housing. Examiner respectfully disagrees.

For a device to be "compact" it must occupy little space compared with others of its type. Similar to Tosaki, Hunter (U.S. Patent No. 5,347,400) discloses a head mounted virtual display unit with an optical system in the field of view of one eye of the user. As can be seen from the illustrations, the apparatus of Tosaki occupies little space compared with that of Hunter. Therefore, Tosaki discloses a compact head mounted virtual display unit.

Although the head mounted virtual display unit of Tosaki is used such that an optical system is within the field of both eyes of the user, the optical system is still within the field of view of "one eye" of the user, therefore reading on the claimed limitations as presented.

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In response to the amendment to independent Claim 1, the "housing" of Tosaki is interpreted as elements 10, 69 and 80 while the "light shield" is interpreted as element 80. As such, the "light shield" 80 is integrated with the "housing" 10,69,80.

Moreover, the "light shield" is "slidable" in that it moves over a surface while smooth continuous contact is maintained between the open position and the closed position, as evidenced by fulcrums 80L and 80R.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. **Claims 1 and 3** are rejected under 35 U.S.C. 102(b) as being anticipated by Tosaki (U.S. Patent No. 5,844,530, hereinafter TOSAKI).

As to independent **Claim 1**, TOSAKI teaches/suggests a compact head mounted virtual image display unit, the unit in **Figures 1-4** comprising:

a microdisplay (73);

an optical system (2) for directing an image signal for viewing by a user, the image signal being generated in accordance with the microdisplay (73);

an optical system mounting structure (69) for supporting the optical system (2) within the field of view of one eye of the user;

a housing (10,69,80) to substantially contain at least the optical system (2); and

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a slidable light shield (80), integrated within the housing (10,69,80) and having an open position and a closed position, wherein the light shield (80) is slidably positioned with respect to the optical system (2) such that, in the open position, the image signal is viewed by the user with background light entering the optical system (2), and in the closed position, the image signal is viewed by the user with background light at least partially blocked from entering the optical system (2) (TOSAKI: col. 7, ln. 45 – col. 8, ln. 30).

As to **Claim 3**, TOSAKI teaches/suggests wherein the light shield is one of opaque, partially opaque, colored and polarized (TOSAKI: col. 7, ln. 59 – col. 8, ln. 4).

### *Conclusion*

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

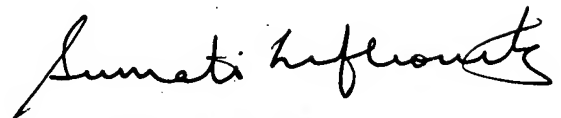
Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Alexander S. Beck** whose telephone number is **(571) 272-7765**. The examiner can normally be reached on M-F, 8AM-5PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Sumati Lefkowitz** can be reached on (571) 272-3638. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

asb  
1/23/07



SUMATI LEFKOWITZ  
SUPERVISORY PATENT EXAMINER